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UNCLAS SECTION 01 OF 02 HO CHI MINH CITY 000294

SIPDIS

SENSITIVE

DEPARTMENT PLEASE PASS USTR, ELENA BRYAN  
STATE FOR EAP/BCLTV AND EB/TPP/ABT/BTT  
USDOC FOR 4430/MAC/ASIA/OPB/VLC/HPPHO  
TREASURY FOR OASIA

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SUBJECT: STATE TRADING IN VIETNAM - U.S. BANKS WANT LEVEL PLAYING FIELD

REF: A) HCMC 104 B) HCMC 178 C) HCMC 213

11. (U) This is the fourth in a series of cables on industry perspectives in southern Vietnam on the role of the state in the economy.

12. (SBU) SUMMARY: U.S. banks in Ho Chi Minh City report that while they operate relatively freely in Vietnam, they often face tougher requirements and higher standards than local banks. Vietnamese banks operate under more favorable conditions when it comes to capital requirements, branching, and licensing. According to U.S. banks, leveling the playing field between foreign and local banks is a necessary first step to improving Vietnam's financial sector. END SUMMARY.

CAPITAL AND BRANCHING REQUIREMENTS ARE ONEROUS

13. (SBU) In meetings with EconOff, representatives of Citibank, Far East National Bank and the law firm of Baker & McKenzie noted that the most obvious inequity between foreign and Vietnamese banks operating in Vietnam is capital requirements. Local banks are only required to put up approximately USD 1.3 million to open a bank branch. U.S. and other foreign banks, however, must put up USD 15 million for every branch. In theory, these regulations also apply to automatic teller machines (ATMs), so that a U.S. bank would have to come up with USD 15 million in capital for each ATM location. In fact, Citibank was originally prohibited from placing an ATM in the lobby of its office building and instead had to keep the ATM in its 15th floor offices. Authorities told Citibank initially that placing the ATM in the lobby would constitute banking "outside the premises," which would mean the ATM was a separate branch subject to the USD 15 million capital requirement. Following the implementation of the U.S.-Vietnam Bilateral Trade Agreement (BTA), the Vietnamese relaxed their stance on Citibank's ATM and allowed it to be placed in the lobby as part of Citibank's sole HCMC branch. Citibank and other banks note, however, that any attempt to place ATMs in locations other than at the branch office would run up against the USD 15 million requirement.

14. (SBU) In addition to capital requirements, U.S. banks face other onerous branching restrictions. The GVN requires that bank branches operate independently and cannot be considered part of a single entity. A bank wanting offices in Hanoi and HCMC must open two separate branches. As Far East National Bank points out, this regulation results in logistical and operational inefficiencies. Furthermore, representative offices are strictly limited in the functions they can perform; expanding the role of a rep office would require its transformation into a bank branch with all the attendant capital and licensing requirements.

LICENSING IS LIMITED AND THE PROCESS IS OPAQUE

15. (SBU) U.S. banks report ongoing licensing issues. While domestic commercial banks may obtain licenses with unlimited validity, the State Bank of Vietnam (SBV) grants foreign banks licenses for 20 to 30 years. For example, Far East National Bank opened a branch in HCMC in 2004 with a license to operate for 20 years. In addition, banks are prohibited from providing a service unless their license specifically permits it. Banks must apply to amend their license or apply for a new license in order to expand their services. For example, U.S. banks are allowed to accept USD demand and fixed deposits from non-borrowing customers under the terms of the BTA, but the SBV requires banks to obtain a license to provide this service. To get around this onerous requirement, Far East National Bank will often provide small loans to customers so that the bank can then receive the customers' deposits. Finally, the licensing process itself is opaque and lacks uniformity. Citibank notes that there is no checklist to which a bank can refer in going through the licensing process and there is no guarantee that the GVN will issue a license, even if the necessary requirements are met.

OTHER PROBLEMS INCLUDE LENDING LIMIS, ATM FUNCTIONS

16. (SBU) Another inequity to which U.S. banks are informally subject are lending limits. Far East National Bank notes that although Vietnamese law prohibits lending more than 15 percent of

the bank's capital to a single borrower, the GVN routinely waives this rule for state-owned banks. Another potential inequity could arise with regard to ATM functions. Baker & McKenzie notes that U.S. banks could face difficulties in the future when they want to make their ATMs full-service machines, to include deposits and transfers. (NOTE: Baker & McKenzie reports that currently virtually all ATMs in Vietnam are cash-dispensing machines only. END NOTE.) The Vietnamese texts of the BTA and other agreements translate "ATM" into "cash-dispensing machine." There is concern that U.S. banks in the future may not be able to operate full-service ATMs barring a change in this language.

COMMENT

17. (SBU) On the whole, U.S. banks are optimistic about doing business in Vietnam. They see tremendous potential for expanding their business and for the development of other financial services. However, they say the GVN must address inequities and strengthen weak legal structures. These weaknesses include inadequately enforcing creditor claims, lack of a legal definition of overdue debt, lack of adherence to international accounting standards, etc. An important first step in developing Vietnam's financial sector would be a level playing field for foreign and domestic banks.

WINNICK